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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/883,341	06/19/2001	Shlomo Orbach	ORBACH4	9649

1444 7590 08/03/2004

BROWDY AND NEIMARK, P.L.L.C.  
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SUITE 300  
WASHINGTON, DC 20001-5303

EXAMINER
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PAYNE, DAVID S

ART UNIT	PAPER NUMBER
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2633

DATE MAILED: 08/03/2004

5

Please find below and/or attached an Office communication concerning this application or proceeding.

2

# Office Action Summary

Application No.

09/883,341

Applicant(s)

ORBACH ET AL.

Examiner

David C. Payne

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 04 May 2004.  
2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1 and 3-7 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 1 and 3-6 is/are rejected.  
7) ☒ Claim(s) 7 is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.  
10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_.  
5) ☐ Notice of Informal Patent Application (PTO-152)  
6) ☐ Other: \_\_\_\_\_.

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## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments with respect to claims 1 and 3-6 have been considered but are moot in view of the new ground(s) of rejection.

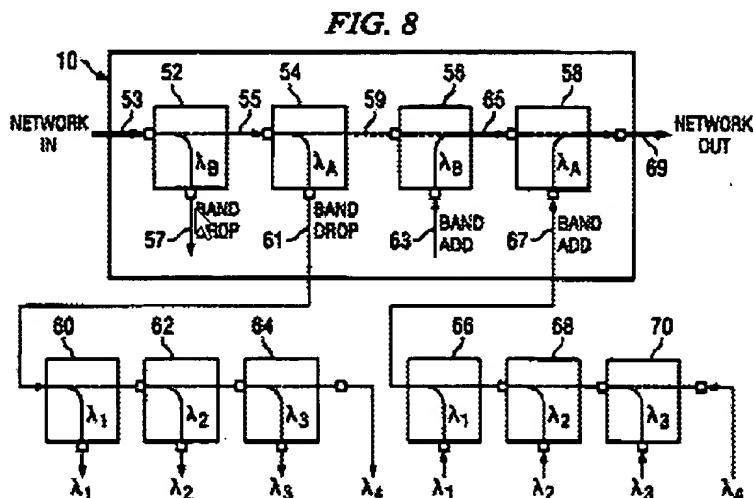
### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claim(s) 1, 3 and 4 is/are rejected under 35 U.S.C. 102(e) as being anticipated by Hutchison et al. US 6,687,463 (Hutchison).



Re claim 1,

Hutchison disclosed a group optical add drop multiplexer (GOADM) comprising a periodic filter (52 or 56 of Figure 8) for dropping (57 of Figure 8) or adding (63 of Figure 8) a group of incoming optical wavelengths from/to a spectrum of optical wavelengths (e.g., col./line: 6/53-67, 7/1-15) transmitted over an incoming optical line (NETWORK IN) so that adjacent optical wavelengths in the spectrum are initially spaced from one another by a basic step "s" (100 GHz spacing see col. 13 lines 55-60), the GOADM comprises said periodic filter insertable in the optical line as a primary filter to produce said group of optical wavelengths where adjacent wavelengths of the group are spaced from one another by a group step being equal to KS, wherein K is an integer > 1 (200 GHz, 100 GHz or 50 GHz see col. 11 lines 54-60).

Re claim 3,

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Hutchison disclosed one or more secondary filters connected to said periodic filter, wherein each of said secondary filters is responsible for dropping (e.g., 60, 62, 64,  $\lambda_1 \lambda_2 \lambda_3$ ) or adding (e.g., 66, 68, 70,  $\lambda_1 \lambda_2 \lambda_3$ ) one particular wavelength from said group.

Re claim 4,

Hutchison disclosed an ADD module and a DROP module, wherein the DROP module comprises a first said periodic filter (52) serving as a primary DROP periodic filter and connected to a first assembly comprising at least one secondary DROP filters (60, 62, 64) each responsible for separating a particular wavelength from the group, and wherein the ADD module comprises a second said periodic filter (56) serving as a primary ADD periodic filter and connected to a second assembly comprising at least one secondary ADD filters (66, 68, 70) each responsible for picking a particular wavelength for the group.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hutchison et al. US 6,687,463 (Hutchison).

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Re claim 5, Hutchison does not disclose that the first periodic filter (52) and second periodic filter (56) are one and the same enabling simultaneous operation of said two modules.

However, it would have been obvious to one of ordinary skill in the art the time of invention to integrated to two filters as the same device can perform adding and dropping in different directions since WDM light does not interfere with one another. Furthermore, lacking any criticality it is not patentable over the prior art to make parts integral.

6. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hutchison et al. US 6,687,463 (Hutchison) in view of Bailey et al. US 6,633,695 B2 (Bailey).

Hutchison disclosed the aforementioned invention but does not disclose where the primary filter is tunable. Bailey disclosed the use of tunable grating filters (see Figure 1). It would have been obvious to one of ordinary skill in the art at the time of invention to use the tunable Bailey grating filters in the Hutchison optical add drop multiplexer so that reconfiguration of the network can be accomplished without removing and inserting ADMs (see Bailey col./line: 2/5-15).

***Allowable Subject Matter***

7. Claim 7 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a).

Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

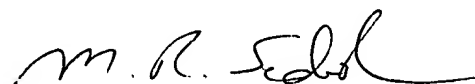
9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to David C. Payne whose telephone number is (703) 306-0004. The examiner can normally be reached on M-F, 7a-4p.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jason Chan can be reached on (703) 305-4729. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Dcp



**M. R. SEDIGHIAN**  
**PRIMARY EXAMINER**